

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.19088 of 2016

T.Kottaiyan

...Petitioner

Vs.

The Revenue Divisional Officer
Kallakurichi
Villupuram District

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of rejection passed in proceedings No.Na.Ka.A7/4747/2012 dated 08.03.2016 on the file of the respondent and quash the same and direct the respondent to issue community certificate to the children of the petitioner viz., (1) Bhuvaneswari and (2) Tamilselvan that they belong to "Malaikuravan (ST) Community" based upon the community certificate already issued to the petitioner.

For Petitioner : Mr.S.Doraisamy
For Respondent : Mr.P.S.Shivashanmugasundaram,
Spl.G.P.

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

This Writ Petition is filed seeking to quash the order of rejection passed in proceedings No.Na.Ka.A7/4747/2012 dated 08.03.2016 on the file of the respondent and to direct the respondent to issue community certificate to the children of the petitioner viz., (1) Bhuvaneswari and (2) Tamilselvan that they belong to "Malaikuravan (ST) Community" based upon the community certificate already issued to the petitioner.

2. Heard the learned counsel for the petitioner and Mr.P.S.Shivashamugasundaram, learned Special Government Pleader, who accepts notice on behalf of the respondent.

3. In the accompanying affidavit of the Writ Petition, the petitioner has averred that he approached the respondent by application dated 03.07.2007 requesting to issue community certificate in favour of his children and for the said reason, he filed W.P.No.29981 of 2012 before this court, on which, this court by order dated 27.11.2012 directed the respondent to dispose of the application within 12 weeks. It is further averred that the respondent thereafter passed an order of rejection dated 09.06.2013 and challenging the same, he filed another W.P.No.17585 of 2014, wherein, this court remitted the matter to the respondent to conduct fresh enquiry by following the guidelines issued in W.P.No.30368 & 31873 of 2015. The grievance of the petitioner is that the respondent, without following the guidelines issued by this court in W.P.No.30368 & 31873 of 2015, rejected his application and therefore, he is before this court.

4. We have perused the impugned order dated 08.03.2016, wherein, the Revenue Divisional Officer, Kallakurichi, Villupuram District, has pointed out that there is no supporting document available and produced by the petitioner.

5. It is relevant to note herein that based on the judgment of Madurai Bench of Madras High Court passed in W.P.(M.D). No.1355 of 2015 dated 05.02.2015, the Secretary to Government, Revenue Department, has issued a Government Order in G.O.Ms.No.235, Revenue [RA3(2)] Department dated 26.06.2015 wherein, the appellate authority for appeal remedy with regard to issue of community certificate in respect of Scheduled Tribes has stated as follows:-

Community	Issuing Authority	Appellate Authority	Redressal of Grievances
Schedule Tribes	Revenue Divisional Officer	District Collector	District Collector & Chairman District Level Vigilance Committee.

6. The learned counsel for the petitioner also placed reliance on the judgment of the Apex Court in the case of STATE OF BIHAR AND OTHERS Versus SUMIT ANAND reported in 2005 12 SCC 248, to contend that once certificate has been issued, the same shall be treated as valid.

7. We have gone through the decision in the case of STATE OF BIHAR AND OTHERS Versus SUMIT ANAND (cited supra), wherein in paragraph No.6, it is held as follows:-

" 6. We have perused the findings recorded by the Division Bench as well as the Single Judge of the High Court. In view of the fact that the respondent's father, grandfather, mother and maternal uncle had all been granted the certificate certifying that they belong to the "Gond" community, we see no reason to come to a conclusion other than the one arrived at by the High Court to the effect that the respondent was entitled to issuance of the caste certificate."

8. In view of the above, it is for the petitioner to approach the appellate authority within one month from the date of receipt of a copy of this order. The appellate authority shall decide the matter regarding issue of community certificate to the petitioner's children within two months thereafter.

9. The Writ Petition is ordered on the above terms. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nvsri

To

The Revenue Divisional Officer
Kallakurichi
Villupuram District

+1cc to Mr.S. Doraisamy, Advocate, S.R.No.30475
+1cc to the Government Pleader, S.R.No.30137

RSY(CO)
EU(21/06/2016)

W.P.No.19088 of 2016

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